

November 1998

CURRICULUM VITAE**DAVID M. EISENSTADT****Principal**

Microeconomic Consulting and Research Associates, Inc.
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Washington, D.C. 20036
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Education

- 1979 Ph.D., Economics, University of Illinois (Urbana-Champaign)
- 1975 M.S., Economics, University of Illinois (Urbana-Champaign)
- 1973 B.S., Economics, University of Maryland

Experience

Dr. Eisenstadt joined Microeconomic Research and Consulting Associates, Inc. as a founder and Principal in 1991. His experience includes antitrust work in the health care, telecommunications, soft drink, toy, and energy industries, as well as the computation of damages in private antitrust and other litigation.

Prior to joining MICRA, Dr. Eisenstadt was a Senior Vice President of ICF Consulting Associates. From 1984-1986, Dr. Eisenstadt was a Senior Economist at the consulting firm of Cornell, Pelcovits & Brenner Economists Inc., an economic consulting firm specializing in telecommunications economics. While there, he worked on a variety of matters including telecommunications antitrust litigation. Prior to that, he was a Senior Economist at the U.S. Department of Justice, Antitrust Division in Washington, D.C. where he was assigned to a variety of matters including the IBM case, investigation of the 1979 domestic gasoline shortage, and defense and health care industry mergers or ancillary restraints.

As a private consultant, Dr. Eisenstadt has been retained to provide economic advice and competitive analysis in many types of commercial activities including mergers, instances of alleged monopolization, price fixing, exclusive contracts, most favored nations agreements, boycotts, and economic damages. Dr. Eisenstadt's testimony experience and a partial list of the different types of matters he has worked on is listed below.

DAVID M. EISENSTADT

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Testimony

- Deposition testimony in Marshall v. Planz et al.
- Deposition testimony in Snyder v. Ohio Bell.
- Trial testimony in Hylton v. St. Vincent Hospital.
- Affidavit testimony in Cypress Recreation Center Ltd. v. Pepsi-Cola Bottling Company et al.
- Deposition testimony and expert report in Howerton, et al. v. Grace Hospital, et al.
- Deposition and affidavit testimony in Advanced Health-Care Services, Inc. v. Giles Memorial Hospital, et al.
- Deposition and trial testimony in The Care Group v. Creef et al.
- Affidavit testimony in J. Michael Becker, D.C., et al. v. Blue Shield of Southwestern Virginia, et al.
- Deposition and affidavit testimony in EGH Inc., doing business as Eastmoreland Hospital v. Blue Cross and Blue Shield of Oregon, et al.
- Trial and deposition testimony in the matter of U.S. Healthcare, Inc., et al. v. Healthsource, Inc., et al.
- Deposition and expert report in the matter of Bellavia v. Hackensack, et al.
- Affidavit and supplemental affidavit testimony in Williamson v. Sacred Heart Hospital, et al.
- Expert report in the matter of Wei v. Bodner, et al.
- Trial testimony in King v. U.S.A.

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- Deposition and trial testimony in HTI Health Services, Inc. v. Quorum Health Group, Inc., et al.
- Deposition and trial testimony in Federal Trade Commission v. Butterworth Health Corporation, et al.
- Deposition testimony in Parikh v. Franklin Medical Center
- Deposition testimony in Independence Blue Cross v. Pennsylvania Insurance Department
- Deposition testimony in Ertag, et al. v. Naples Community Hospital
- Deposition, trial, and affidavit testimony in Albani, et al. v. Southern Arizona Anesthesia Services.
- Deposition testimony in Major v. U.S.
- Affidavit testimony in NBA v. BCBS of Alabama.
- Trial, deposition, and affidavit testimony in U.S. v. Carilion Health System, et al.
- Affidavit testimony in U.S. v. Beverly Enterprises, Civil Action No. 84-70-1-MAC.
- Affidavit testimony in M&M v. Pleasant Valley Hospital, Civil Action No. A

Additional Matters

- Consulting economist to numerous hospitals and hospital systems.
- Preparation of a report that analyzed the effect of a Federal Home Loan Bank Board Rule governing direct investments of FSLIC insured Savings and Loans.
- Damages analysis in MCI v. AT&T
- Preparation of an analysis that explained the relationship between concentration and profitability in the elevator industry.

DAVID M. EISENSTADT

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- Preparation of a report that assessed the competitive benefits of continued regulation of Williams Pipeline
- Analysis of the merger between General Electric and CGR,

Teaching Experience

- Graduate Teaching Assistant in Microeconomics and Business Statistics at the University of Illinois, Urbana-Champaign.
- Assistant Professor, Department of Economics at the University of Missouri. Courses taught included Antitrust Economics, Industrial Organization, Intermediate Microeconomics, Medical Economics and Intermediate Econometrics.

Publications and Presentations

Eisenstadt, D., "Hospital Competition and Costs: The *Carilion* Case (1989)," *The Antitrust Revolution: The Role of Economics, 2nd Edition*, John Kwoka and Lawrence J. White, Editors, 1994.

Eisenstadt, D., "Product Market Definition in Health Antitrust Cases: Concept and Application," Speech before the National Health Lawyers Association, February 1994.

Eisenstadt, D., "Health Care Antitrust Analysis: Thinking Through the Issues," Speech and paper presented at Trends in Antitrust Health Care Conference sponsored by the American Bar Association, October 1990.

Eisenstadt, D., and R.T. Masson, "Price Effects from Recent Non-Profit Hospital Mergers," Paper presented at the American Public Health Association Meetings, October 23, 1989.

Eisenstadt, D., "Type and Form of Economic Evidence Important to Analysis of Hospital Mergers: Case Studies of Roanoke and Rockford District Court Decisions," *Hospital Mergers: An Executive's Guide Through the Antitrust Thicket*, American Hospital Association, September 1989.

DAVID M. EISENSTADT**Page 5**

Eisenstadt, D., "Economic Testimony in U.S. v. Carilion Health Systems: Some Thoughts From the Defendants' Economist," Speech before the National Health Lawyers Association, January 26, 1989.

Eisenstadt, D., "Geographic Market Definition in the Nursing Home and Hospital Industries," Paper presented at the American Bar Association Meetings, August 1984.

Eisenstadt, D., "An Antitrust Economist's View of Licensure," Speech Before the National Clearinghouse on Licensure, Enforcement and Regulation, August 1983.

Eisenstadt, D., and T. Kennedy, "Physician Controlled Health Insurance Plans and the Coverage of M.D.-Substitutes," Paper presented at the Eastern Economic Association Meetings, March 1983.

Schwartz, M. and D. Eisenstadt, "Vertical Restraints," *Economic Policy Office Working Paper #82-8*, December 1982.

Arnould, R. and D. Eisenstadt, "The Effects of Medical Society Control of Blue Shield on Fees in the Physicians' Services Market: Some Preliminary Evidence," *Quarterly Review of Economics and Business*, Spring 1982.

Arnould, R. and D. Eisenstadt, "The Effects of Provider-Controlled Blue Shield Plans: Regulatory Options," *A New Approach to the Economics of Health Care*, Mancur Olson, ed., American Enterprise Institute, 1981.

Eisenstadt, D. and T. Kennedy, "Control and Behavior of Non-Profit Firms: The Case of Blue Shield," *Southern Economic Journal*, July 1981.

Awards and Affiliations

Outstanding Performance Rating, U.S. Department of Justice, 1983, 1984

Special Achievement Award, U.S. Department of Justice, 1980

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF NEW YORK

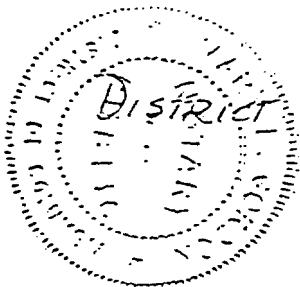
IN THE MATTER OF NEW YORK TELEPHONE)
COMPANY'S PROPOSAL TO DISCONTINUE) Case No. 98-C-1079
OFFERING INFORMATION SERVICES)

AFFIDAVIT OF DAVID M. EISENSTADT, Ph.D.

STATE OF NEW YORK)
COUNTY OF)

David M. Eisenstadt, Ph.D., of lawful age, being first duly sworn deposes and states:

1. My name is David M. Eisenstadt. I am a Principal at Microeconomic Consulting and Research Associates, an antitrust economics consulting firm located in Washington, D.C.
2. Attached hereto and made a part hereof for all purposes is my Direct Testimony.
3. I hereby swear and affirm that my answers contained in the attached testimony to the questions therein propounded are true and correct to the best of my knowledge and belief.



DISTRICT OF COLUMBIA, SS:

David M. Eisenstadt
(Name)

Subscribed and sworn to this 11th day of December, 1998

M. Gordon
Notary Public

My Commission Expires: My Commission Expires October 31, 1999

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

Proceeding on Motion of the Commission to : Case 98-C-1079
Investigate New York Telephone Company's :
Proposal to Discontinue Offering Information :
Services :

Pre-File Testimony of Elwin Macomber

Q. State your name, address, and occupation.

A. ELWIN MACOMBER. I reside in New Hampshire and am the owner of Macomber Communications and Computer Technology ("MCCT"), a New Hampshire proprietorship.

Q. Describe the history of MCCT and identify the services that it providers?

A. MCCT began operation in 1992 with no employees other than myself; today it has eighteen employees with installations in over 51 countries. MCCT is engaged in distributing and installing switching products, such as ACDs, and in the manufacturing of interactive voice response units ("IVRs").

Q. Describe your background and your experience in the area of audiotex and teleconferencing.

A. I attended Norwich University majoring in Physics with a minor in Chemistry. I have been involved in the technical side of audiotex and teleconferencing services since in or about 1987.

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3 Before forming my own company, MCCT, in 1992, I was a
4 software engineer for Multi-Link for teleconferencing, dialogic
5 and other products. I also worked for Talking Systems, a company
6 that distributed IVRs and ITT-3100 PBX systems.

7 I have installed conference bridge switches, IVRs and
8 other teleconferencing equipment, including New Bridge 3600
9 bandwidth managers, in over 70 telephone company central offices,
10 including Sprint and MCI. I am experienced in the installation
11 of a variety of switches such as switches made by NEC, Siemens,
12 AT&T, and Northern, and in the manufacturing of teleconferencing
13 products such as a Multi-Link Conference Bridge. I am certified
14 in the installation and maintenance of the 3100 switch, the
15 Millennium switch, the New Bridge 3600 band-width manager, and
16 the New Bridge 3624 channel ban

17 Q. Are you familiar with telephone pay-per-call services
18 generally and with New York Telephone Company d/b/a Bell Atlantic
19 New York ("BA-NY") InfoFone services in particular.

20 A. In 1987, I was one of the first field engineers to install
21 550 group bridging equipment for New York Telephone Company's
22 InfoFone service. Since then, I have worked with many of the BA-
23 NY InfoFone information providers in connection with the design
24 and installation of equipment necessary to provide InfoFone
25 information services.
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2 Q. Are you familiar with BA-NY's claims that, if it is required
3 to migrate its InfoFone services from the Ericsson switch to
4 another switch, such as BA-NY's 5ESS switch located at its West
5 18th Street facility in Manhattan, it will no longer be able to
6 provide broadcast services to its 976 mass announcement
7 information provider subscribers.

8 A. I have reviewed BA-NY's October 6, 1998 Presentation to the
9 Commission and have also reviewed BA-NY's answers to information
10 requests from PPI and from IPs in which BA-NY makes that claim.
11 I also recognize that BA-NY has refused to answer most of the
12 information requests directed to it regarding this matter.

13
14 Q. In your opinion, is it possible for BA-NY to provide a
15 broadcast function for the 976 mass announcement service after
16 migration of the InfoFone service from the Ericsson switch and,
17 if so, how?

18 A. Yes. Although there may be more than one way in which this
19 can be accomplished, I know that such a broadcast function can be
20 provided in the following way at a relatively modest cost.

21 BA-NY can provide the service by using IVR/VRU
22 equipment connected to, e.g., BA-NY's 5ESS switch at West 18th
23 Street. The IVR/VRU system would allow for voice storage and
24 playback of each information provider's specific message
25 according to the number dialed. The connection between the
26 IVR/VRU and the 5ESS switch would be made through multiple T-1

1
2 simultaneous calls at peak call handling time to show how this
3 would work.

4 To handle that peak volume, 45 T-1 connections would be
5 needed to connect the 5ESS switch to the IVR/VRU system. Each
6 information provider would be assigned a list of DNIS numbers
7 that would correspond to its existing 976 telephone numbers. The
8 5ESS switch would process the call and present the call to the
9 IVR/VRU via a T-1 connection. The 5ESS would send the DNIS to
10 the IVR/VRU in order to set up and play the appropriate message
11 to the caller.

12 Updating the message for each information provider
13 would be done remotely via a voice connection with an ID number
14 and password protection. A common RAID system would insure that
15 a common database and voice resource was kept between the
16 multiple IVR systems. Redundant hot swap -48 VDC power supplies,
17 hard drives and network mirrored systems would insure twenty four
18 hours a day, seven days a week, 365 days a year operation.

19 I have put together a tentative quote for a system
20 based on an assumption that there would be no more than 1080
21 simultaneous calls at any given time. A copy of that quote is
22 annexed as Exhibit L. If BA-NY would provide information
23 regarding peak hours, I would provide a more precise estimate of
24 costs.

25
26 Q. Are you familiar with BA-NY's claim that the Ericsson switch
27 is not year 2000 complaint.
28

1
2 regarding peak hours, I would provide a more precise estimate of
3 costs.

4
5 Q. Are you familiar with BA-NY's claim that the Ericsson switch
6 is not year 2000 complaint.

7 A. Yes. In a letter from Mr. Charlie Stroud to Mr. George
8 Korsanos dated May 29, 1998 which is annexed hereto as Exhibit
9 I, Mr. Stroud discusses certain problems that "could" occur.
10 However, he offers no evidence that would prove that any of these
11 potential problems would in fact occur in the transition of the
12 Ericsson switch to the year 2000.

13
14 Q. Do you know whether there is such a year 2000 problem with
15 the Ericsson IMAS switch and, if not, is there any way to
16 determine whether there is such a problem?

17 A. If Ericsson cannot say with certainty whether there is a
18 problem, I certainly cannot. However, it is possible to
19 determine at this time whether there is such a problem.

20 A controlled test could, and should, be run at this
21 time by setting the clock forward to the year 2000 to measure the
22 effects of the year 2000 on the switch. This can be done because
23 the switch is not used for accounting purposes. By setting the
24 switch ahead to year 2000 at this time, we can prove or disprove
25 whether there will be year 2000 problems. If problems arise, the
26 switch can immediately be turned back to the present.

27
28

Q. If there are year 2000 problems, potential or actual, is there any possible solution to these problems short of migrating from the Ericsson switch to another switch before the year 2000 arrives.

A. An inexpensive solution to the year 2000 problem would be to set the Ericsson switch clock back to a prior year in the twentieth century which matches the year 2000. This should be a seamless transition that would avoid any year 2000 problems that might otherwise exist. A test in which the clock were turned back could be run at this time to determine whether year 2000 concerns can be addressed in this manner.


Elwin Macomber

Sworn to before me this
10 day of December, 1998


Notary Public

LYNN R. COLLETTE, Notary Public
My Commission Expires March 19, 2002

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

Proceeding on Motion of the Commission to	:	Case 98-C-1079
Investigate New York Telephone Company's	:	
Proposal to Discontinue Offering Information	:	
Services	:	

Q. Please state your name and residence.

A. MICHAEL MARENICK. I am a resident of New Jersey.

Q. Please state the reason why you are submitting this testimony.

A. I am the sole shareholder in Marenick, Inc. ("Marenick"), an InfoFone telephone information provider ("IP") for the past 10 years. New York Telephone Company d/b/a Bell Atlantic - New York ("BA-NY" seeks to terminate its services to all InfoFone information providers, including Marenick. I submit this testimony in opposition to the application of BA-NY for the right to terminate its New York InfoFone service, including all New York telephone information service provided by Marenick.

- Q. What are the consequences to Marenick, if BA-NY terminates this service?
- A. If BA-NY terminates this service, Marenick will be forced to shut down its business and Marenick's numerous customers will be deprived of its service.

Q. Do 900 services offer a viable alternative to Marenick?

A. "900" services do not offer a viable alternative. The reasons for this, inter alia, are that "900" services are substantially higher priced, they are nationwide while Marenick's business is local, and Marenick's telephone number will be forfeited, and much or all of its goodwill lost, in any transfer to a "900" service. Moreover, many reputable businesses seeking zip code information would be unwilling to obtain this information by calling "900" numbers in view of the unsavory reputation of that service.

Q. Do you know of any competing local exchange carrier ("CLEC") or service bureau willing to provide this InfoFone service.

A. I know of no CLEC or service bureau that has offered to provide the InfoFone service.

Q. Has Marenick made recent expenditures to improve its service?

A. This past summer, Marenick invested a substantial sum in order to provide a more efficient service in the New York Metropolitan area. At no time prior to this expenditure did BA-NY advise Marenick or any of the other InfoFone IPs that it intended to discontinue the InfoFone service.

- Q. Has Marenick experience any discrepancies with BA-NY's call counts?
- A. Over the past few years, Marenick has experienced call count problems with BA-NY. These inaccurate counts have been as high as 20% of Marenick's call volume. When I complained of these problems, BA-NY representatives advised me that their machines went down but the problems were never rectified.

Conclusion

Based upon the foregoing and as set forth in testimony, BA-NY's request to withdraw its InfoFone tariffs should be denied, and BA-NY should be directed to compensate all IPs for inaccurate call counts, fix the call count irregularities, and file a tariff removing contribution from all the InfoFone services, including the InfoFone service to Marenick and the other 540 subscribers.


Michael Marenick

Sworn to before me this
9th day of December, 1998.


Notary Public

SARA F. MILLER
NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES MAY 2, 2000

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

Proceeding on Motion of the Commission to : Case 98-C-1079
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Prefiled Testimony of Jay Thomas

Q. Please state your name and residence.

A. Jay Thomas, a New York resident.

Q. Please identify your title and company name.

A. I am the Chairman of New Capital Resources, Inc. ("New Capital").

Q. How long have you been with New Capital?

A. I began New Capital three years ago. Prior to that, I was a Partner in Morrisania Development Company ("Morrisania").

Q. What business is New Capital engaged in?

A. New Capital operates several "540" lines which provide callers with information on business and employment opportunities. Recently, we have established a service providing callers with information on educational grants and funding for higher education.

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Q. How did you learn of IINS service?

A. When Morrisania first started, we provided our customers with an information booklet on employment opportunities through the mail. However that method of delivering our services was ineffective to both our customers seeking employment and employers seeking to fill vacancies.

Then I became aware of someone advertising apartments via "540" lines. I realized that this would be the perfect vehicle for our services.

Thereafter, we applied for and received designated lines on the IINS system. Immediately, we began using the "540" lines exclusively and abandoned distributing our information booklets through by the postal service.

Q. How did you market and advertise your services?

A. New Capital and Morrisania advertise their programming on cable TV and in major local newspapers including: Village Voice; New York Times; New York Daily News and Newsday. The target audience for our services are semi-skilled wage earners of cross cultural backgrounds in the age group of 18-50.

Q. What is your advertising budget?

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2 A. Presently our advertising budget comprises
3 approximately one-third of our total revenue. In the
4 past few years, this has grown from 20% of our revenue
5 to its present level of one-third.
6

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8 Q. Has your services experienced any reduction in call
9 volume?

10 A. Yes, call volume has fallen as BA-NY has withdrawn
11 advertising support for these services.
12 In the past, BA-NY has supported "540" services with ad
13 space in its annual Yellow Pages. This is no longer
14 done and information providers like New Capital have
15 experienced a reduction in call volume as a result.

16 Q. Has BA-NY taken any additional action which has caused
17 call volume to have fallen?

18 A. One of the most troubling aspects of BA-NY behavior
19 recently is that when new customers establish an
20 account with BA-NY, their representatives ask if the
21 customers would like a block on their phone for
22 services like "900" services, usually free of charge.
23 They fail to disclose to the customer that this block
24 will preclude them from accessing any other
25 informational providers over the IINS system.
26 Over six months ago, I requested that a block be
27 removed from my home telephone. To date, this block is
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2 still in place; occasionally the block is not on, but
3 it always seems to be re-activated. This precludes me
4 from calling into my own services.
5

6 Q. Has your services resulted in employment for any of
7 your customers?
8

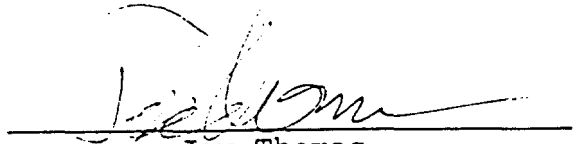
9 A. We have had numerous callers find employment through
10 our services. Actually, New Capital posts its own job
11 openings on its service. This has resulted in several
12 telemarketers finding employment with us through our
13 service.
14

15 Q. How many employees does New Capital have?
16

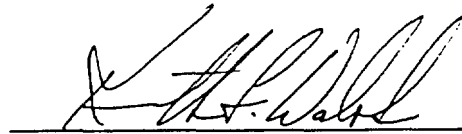
17 A. It varies, we usually have at least four or five
18 regular employees, down from 8 12 some years ago.
19

20 Q. What would happen to New Capital if BA-NY is successful
21 in terminating its INNS service?
22

23 A. New Capital Resources, Inc. would quickly go out of
24 business, creating at least four or five potential new
25 customers who would need our service, along with
26 countless other unemployed people in the metropolitan
27 area. Unfortunately, this valuable service would not
28 be available to them if BA-NY is successful.


Jay Thomas

Sworn to before me this
10th day of December, 1998


Notary Public

KENNETH G. WALSH
Notary Public, State of New York
No. 02 WA-6011216
Qualified in Queens County
Commission Expires 04/12/99

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

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Q. Please state your name and residence?

A. Oliver Oziel, and resident of New York.

Q. State your present occupation?

A. I am a information provider subscribing to New York
Telephone Company d/b/a Bell Atlantic - New York's ("BA-NY")
540 IINS interactive InfoFone telephone service.

Q. What is the purpose of your testimony?

A. I submit this testimony in opposition to BA-NY's
application to withdraw its InfoFone tariffs, including its
InfoFone 540 tariff.

Q. How did you become interested in IINS services?

A. Until recently, I was a real estate broker who became
interested in the "900" service, which was the only
telephone information service that I knew of. I spoke with
a service bureau in or about January 1997 who told me about
problems with the "900" services. In connection with my

1
2 consideration, I learned about such problems as the high
3 costs of the "900" service, the need for national
4 advertising for that service, and the benefits of BA-NY's
5 low cost IINS service.
6

7 Q. When did you become an information provider?

8 A. I received an IINS application in February
9 1998 and, shortly thereafter, subscribed to one 540 number
10 with four lines, borrowed money for advertising, space and
11 equipment, and started in business, providing an information
12 line on job opportunities.
13

14 Q. Was your service well received; and if so, what steps
15 did you take for future growths?

16 A. My service started doing well and, before BA-NY
17 announced the termination of its InfoFone in the summer of
18 1998, I gave notice to my employer that I was quitting. It
19 was my intention to devote all my time to developing this
20 telephone information program business. In furtherance of
21 that, shortly after, I subscribed to a second IINS 540 line
22 which would provide job opportunities to callers.
23

24 Q. Generally, what has been your experience with BA-NY?

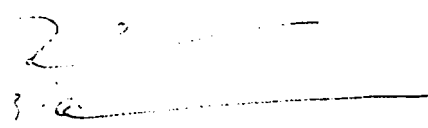
25 A. I was impressed with the efficiency of BA-NY's
26 employees and service; everyone I spoke with was helpful.
27
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1
2 Q. If this service is not terminated, what future plans do
3 you have for IINS service?

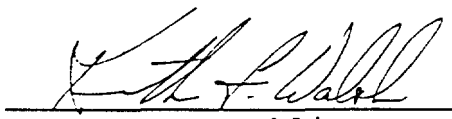
4 A. I am pleased with the programs that I have and am ready
5 to launch 3-4 other programs as soon as I know the programs
6 will not be terminated. I will not start any new programs
7 until I know that BA-NY can continue to provide its InfoFone
8 service.

9 CONCLUSION

10 In view of the foregoing, I request that the
11 Commission deny BA-NY's application to terminate its
12 InfoFone service and tariffs.

13
14 
15 Oliver Oziel

16 Sworn to before me this
17 10 day of December, 1998

18 
19 Notary Public

20 KENNETH G. WALSH
21 Notary Public, State of New York
22 No. 02 WA-5011216
23 Qualified in Queens County
24 Commission Expires 04/12/99
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